

REMARKS

Claims 16 to 27 are added, and therefore claims 8 to 27 are now pending and being considered in the present application.

It is respectfully submitted that all of the presently pending claims 8 to 27 are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for acknowledging the claim for foreign priority, and for indicating that all certified copies of the priority documents have been received.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statements, PTO 1449 papers and cited references.

Claims 8 to 15 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite.

While the indefiniteness rejections may not be agreed with, to facilitate matters, claim 8 has been rewritten to provide the features of ascertaining data, comparing and conjoining values to make at least a first and second triggering decision, and using the at least first and second triggering decisions to generate a triggering decision for a restraint mechanism. As presented, claim 8 is plainly complete. Accordingly, the indefiniteness rejections of claim 8 and of its dependent claims 9 to 15 should be withdrawn.

Claims 8 to 15 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication No. 2002/0087235 A1 ("Aga").

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (*See* M.P.E.P. § 2112; emphasis in original; and *see Ex parte Levy*, 17

U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claim 8 has been rewritten to provide the features of ascertaining at least a velocity of the vehicle's center of gravity, a vehicle lateral acceleration, and a rate of rotation about the longitudinal axis of the vehicle; comparing the vehicle lateral acceleration to a first threshold value, in which the first threshold value is set at least as a function of at least one component of the velocity of the vehicle's center of gravity, in which the comparing results in a first triggering decision; conjoining at least the vehicle lateral acceleration and the rate of rotation about the longitudinal axis of the vehicle, in which the conjoining results in at least a second triggering decision; and generating the triggering decision for the restraint mechanism in the vehicle, in which the generating takes into account at least the first and second triggering decisions.

Even if the "Aga" reference may refer to distinguishing types of rollovers and improving the precision in the rollover determination in accordance with the distinguished types of rollovers, it does not identically disclose (nor even suggest) the features of *comparing the vehicle lateral acceleration to a first threshold value, in which the first threshold value is set at least as a function of at least one component of the velocity of the vehicle's center of gravity, in which the comparing results in a first triggering decision; conjoining at least the vehicle lateral acceleration and the rate of rotation about the longitudinal axis of the vehicle, in which the conjoining results in at least a second triggering decision; and generating the triggering decision for the restraint mechanism in the vehicle, and in which the generating takes into account at least the first and second triggering decisions*, as provided for in the context of the presently claimed subject matter.

In fact, the "Aga" reference refers to *predetermined* threshold lines and, specifically, changing from one *predetermined* threshold line to another *predetermined* threshold line in accordance with the magnitude of a physical quantity that corresponds to a type of distinguished rollover. In contrast, the presently claimed subject matter includes a *first threshold value that is set at least as a function of at least one component of the velocity of the vehicle's center of gravity*. The "Aga" reference does not disclose nor suggest any threshold line or value that *is set at least as a function of at least one component of the velocity of the vehicle's center of gravity*, as provided for in the context of the presently claimed subject matter. Further, because the threshold lines referred to by the "Aga"

reference are *predetermined*, these threshold lines cannot even be *a function of at least one component of the velocity of the vehicle's center of gravity*.

Still further, the physical quantity referred to by the "Aga" reference corresponds to a *type of distinguished rollover*. When discussing this physical quantity, the "Aga" reference refers to a yaw rate and alternatively to a lateral acceleration change rate. The "Aga" reference provides no disclosure nor suggestion that a vehicle speed or velocity corresponds to a *type of distinguished rollover*. Therefore, *the physical quantity that corresponds to a type of distinguished rollover* referred to by the "Aga" reference does not identically disclose (nor even suggest) the feature of *a first threshold value set at least as a function of at least one component of the velocity of the vehicle's center of gravity*, as provided for in the context of the presently claimed subject matter.

For at least the above reasons, the "Aga" reference does not identically disclose (nor even suggest) all of the features of claim 8, so that claim 8 is not anticipated. Accordingly, claim 8 is allowable, as are its dependent claims 9 to 15.

New claims 16 to 27 do not add any new matter and are supported by the present application. Claims 16 to 27 depend from claim 8 and are therefore allowable for the same reasons.

In summary, all of pending claims 8 to 27 are allowable.

Conclusion

In view of the foregoing, it is respectfully submitted that all pending claims 8 to 27 are in condition for allowance. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,
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Dated: 6/10/2008

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